

These minutes were approved by the Board on 3.1.2021

MINUTES OF THE CONFERENCE CALL MEETING

Board of Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art
February 1, 2021

1. ROLL CALL

The conference call meeting of the Board of Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art was called to order by the Chair, Bridget Anderson, at 10:32 a.m., at the Nebraska State Office Building, 301 Centennial Mall South, LU1, Lincoln, Nebraska. In accordance with § 84-1411 of the Nebraska Open Meetings Act, copies of the agenda were 1) mailed to the Board members and other interested parties, and 2) posted on the DHHS web site at <https://dhhs.ne.gov/licensure/Pages/Agendas-and-Minutes.aspx> and on the bulletin board in the Licensure Unit Lobby on 1.25.2021.

Members Present (10):

The following members answered roll call:

Shannon Bingham, Member
Matt Bavougian, Member
Vicki Criswell, Member
Jacqueline Hornig, Secretary
Ruth Lucas, Member
Marie Nordboe, Member
Becky Pettigrew, Member
Brandy Phillips, Member
Pamela Rowland, Vice-Chair
Harold "Buddy" Sims, Member

Members Absent (1):

Bridget Anderson, Chair

Others Present in Conference Room:

Kris Chiles, Program Manager, Licensure Unit
Natalee Hart, Assistant Attorney General

Others Present on Call:

Carla Cue, Investigations
Anna Harrison, DHHS Compliance Monitor
Rachel O'Toole, DHHS Attorney

A quorum was present and the meeting convened.

2. ADOPTION OF AGENDA

MOTION: Pettigrew moved, seconded by Lucas, to adopt the agenda. A voice vote was taken. Voting aye: Bingham, Bavougian, Criswell, Hornig, Lucas, Nordboe, Pettigrew, Phillips, Rowland, Sims (11). Voting nay: None (0). Absent: Anderson (1). Vacant positions (2). Motion carried.

3. APPROVAL OF MINUTES – 11.2.2020 and 12.7.2020

MOTION: Pettigrew moved, seconded by Criswell, to approve the 11.2.2020 minutes. A voice vote was taken. Voting aye: Bingham, Bavougian, Criswell, Hornig, Lucas, Nordboe, Pettigrew, Phillips, Rowland, Sims (11). Voting nay: None (0). Absent: Anderson (1). Vacant positions (2). Motion carried.

MOTION: Hornig moved, seconded by Criswell, to approve the 12.7.2020 minutes. A voice vote was taken. Voting aye: Bingham, Bavougian, Criswell, Hornig, Lucas, Nordboe, Pettigrew, Phillips, Rowland, Sims (11). Voting nay: None (0). Absent: Anderson (1). Vacant positions (2). Motion carried.

4. COVID-19: Executive Orders, Continuing Education, Re-Opens, and Press Releases

<https://dhhs.ne.gov/licensure/Pages/Cosmetology-and-Esthetics.aspx>

The following was discussed:

- Nebraska is still in Phase 1 of the vaccine schedule
- Licensees will be in the 'general public' phase
- Fremont is requiring masks to be worn until the end of March

5. UPDATES/FOLLOW-UP:

a. 2021 Legislation:

- LB 19: Provides for a new definition of "nail technology" which includes natural nail care, defines "pedicuring," and allows for licensure of nail technology apprentice salons. Creates a license for "Temporary Body Art Facility" and "Body Art Guest Artist", and updates the definition for cosmetic tattooing. LB 607 also allows for all practices licensed under the Board of Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art to take their respective licensing exam in multiple languages.

Rowland expressed her thanks to all members who provided testimony in support of LB 19. The hearing was held on January 28, 2021. Rowland provided the following information:

- The Platte Institute and the Department of Health and Human Services opposed the bill for the sole purpose of licensing natural nail services, and recommended a registry for those who provide natural nail services.
- There were many questions asked by the committee.
- Concerns with a registry vs license
 - Would need to complete some education (example, nurse aids are on a registry and are required to complete a 75 hour clinical training program).
 - Reciprocity and mobility, if registry in Nebraska and wish to move to another state, may need to take licensing test in other state.
- It was expressed in a meeting with Senator Kolterman's staff, that he was opposed to a registry for natural nail services.
- Concerns voiced with requiring passage of the nail technology examination for those currently providing natural nail services, given they may have no prior training/schooling in nail technology. Pam's colleagues are in the preliminary stages of setting up testing assistance as an option; there are NIC study guides.
- Iowa's statutes were set up similar to Nebraska's proposal
- Small percentage of individuals who have lost limbs, but how many does it take to consider licensing seriously.
- 15 year old persons providing natural nail services.

Rowland reported that the Board of Health submitted a letter in support of LB 19, with reservations concerning cosmetic tattooing, specifically the long-term effects of eyelid tattooing.

Sims reported there was a letter sent to the legislative committee from an individual who had an unlicensed pedicure, who later developed a wound in their big toe that did not heal, and lead to loss of their limb as the infection spread through the leg. This is not an isolated incident. An additional person lost a finger due infection caused by unsanitary practices by an unlicensed person providing natural nail services.

It was suggested to include the following information for future senator correspondence:

- New nail products and advancement needed for growth of industry
- Practical knowledge
- Body art sections of the legislative proposal

The following members volunteered to develop responses to the comments from the hearing and the areas listed above. Members are: Simms, Rowland, Bavougian, and Hornig.

- LB 422: Would presume all services in Nebraska, except for business inputs, to be subject to taxation, and would lower the sales tax rate to 5 percent. The bill would not take effect until October 1 of 2022.
 - LB 422 includes licensees and unlicensed services such as natural hair braiders, but excludes massage therapy.
 - Hearing is scheduled for 2.3.2021; Hornig stated that comments can be submitted on-line through the bill website: https://nebraskalegislature.gov/bills/view_bill.php?DocumentID=43599.
 - It was stated that 2/3 of the US States do not charge for personal services.
- b. Jurisprudence Examination Re-Write – deferred to March meeting
- c. License Statistics: Summary to be provided following the meeting to members via email.

6. INVESTIGATIONAL & CONFIDENTIAL INFORMATION/REPORTS – CLOSED SESSION

MOTION: Pettigrew moved, seconded by Criswell, to enter into closed session at 11:37 a.m. for the purpose of hearing discussions of an investigative/confidential nature and for the prevention of needless injury to the reputation of the individuals. Anderson repeated the motion and purpose. A roll call vote was taken. Voting aye: Anderson, Bingham, Bavougian, Criswell, Hornig, Lucas, Nordboe, Pettigrew, Phillips, Rowland, Sims (11). Voting nay: None (0). Vacant positions (2). Motion carried.

11:37 a.m. Public and O'Toole exited the call
 11:37 a.m. Anna Harrison, Compliance Monitor entered the call
 Trevor Klaassen and Mark Meyerson, DHHS investigators entered the call
 12:00 p.m. Hornig recused herself from the call (conflict of interest)
 12:05 p.m. Hornig re-entered the call
 12:13 p.m. Klaassen exited the call
 12:14 p.m. Meyerson exited the call
 12:25 p.m. Harrison exited the call
 1:25 p.m. Meeting Break
 1:30 p.m. Meeting resumed, Hart exited the meeting room
 1:34 p.m. O'Toole re-entered the call
 1:47 p.m. Bingham recused herself from the call (conflict of interest)
 1:50 p.m. Phillips exited the call
 1:58 p.m. Bingham re-entered the call

7. APPLICATION REVIEW, RECOMMENDATIONS AND REPORT OUT – OPEN SESSION

1:58 p.m. Verbal agreement from all board members to enter into open session; Hart entered the meeting room

Conviction Reviews

Daniel Ochoa: Tattoo Artist - Initial

MOTION: Criswell moved, seconded by Lucas, to recommend issuance of the license. A roll call vote was taken. Voting aye: Anderson, Bingham, Bavougian, Criswell, Hornig, Lucas, Pettigrew, Rowland, Sims (9). Absent: Phillips (1). Voting nay: Nordboe (1). Vacant positions (2). Motion carried.

Brooke Paules: Esthetician - Initial

MOTION: Rowland moved, seconded by Simms, to recommend a 2 year probation, with the following terms and conditions: Abstain from alcohol/controlled substances, Random body fluid screens, Comply with all treatment recommendations and those in the future, Quarterly employer reports, and the Standard Terms and Conditions of probation. A roll call vote was taken. Voting aye: Anderson, Bingham, Bavougian, Criswell, Hornig, Lucas, Nordboe, Pettigrew, Rowland, Sims (10). Absent: Phillips (1). Voting nay: None (0). Vacant positions (2). Motion carried.

Robin Scheele-Dawson: Cosmetologist - Initial

MOTION: Hornig moved, seconded by Nordboe, to the recommend a 6 month probation, with the following terms and conditions: Successfully complete the jurisprudence examination, and the Standard Terms and Conditions of probation. A roll call vote was taken. Voting aye: Anderson, Bingham, Bavougian, Criswell, Hornig, Lucas, Nordboe, Pettigrew, Rowland, Sims (10). Absent: Phillips (1). Voting nay: None (0). Vacant positions (2). Motion carried.

Wendy DeLong: Cosmetologist - Initial

MOTION: Hornig moved, seconded by Nordboe, to the recommend a 6 month probation, with the following terms and conditions: Successfully complete the jurisprudence examination, and the Standard Terms and Conditions of probation. A roll call vote was taken. Voting aye: Anderson, Bingham, Bavougian, Criswell, Hornig, Lucas, Nordboe, Pettigrew, Rowland, Sims (10). Absent: Phillips (1). Voting nay: None (0). Vacant positions (2). Motion carried.

Jessica (Rima) Bye: Tattoo Artist - Initial

MOTION: Nordboe moved, seconded by Criswell, to the recommend a 1 year probation, with the following terms and conditions: Provide documentation of compliance with all terms and conditions of the Order of Probation issued by the District Court of Dawson County by having your probation officer from District 11 Probation Office in Lexington, and the Standard Terms and Conditions of probation. A roll call vote was taken. Voting aye: Anderson, Bingham, Bavougian, Criswell, Hornig, Nordboe, Pettigrew, Rowland, Sims (9). Absent: Phillips (1). Voting nay: Lucas (1). Vacant positions (2). Motion carried.

Miguel Tapia: Tattoo Artist - Initial

Motion: Nordboe moved, seconded by Rowland, to defer and request additional information. A roll call vote was taken. Voting aye: Anderson, Bingham, Bavougian, Criswell, Hornig, Lucas, Nordboe, Pettigrew, Rowland, Sims (10). Absent: Phillips (1). Voting nay: None (0). Vacant positions (2). Motion carried.

Cameron Wallace-Boyer: Cosmetologist - Initial

Motion: Nordboe moved, seconded by Criswell, to the recommend a 2 year probation, with the following terms and conditions: Abstain from alcohol/controlled substances, Random body fluid screens, Comply with all treatment recommendations and those in the future, Quarterly employer reports, and the Standard Terms and Conditions of probation. A roll call vote was taken. Voting aye: Anderson, Bingham, Bavougian, Criswell, Hornig, Lucas, Nordboe, Pettigrew, Rowland, Sims (10). Absent: Phillips (1). Voting nay: None (0). Vacant positions (2). Motion carried.

Courtney Weaver – Cosmetologist – Initial

Motion: Nordboe moved, seconded by Lucas, to recommend issuance of the license. A roll call vote was taken. Voting aye: Anderson, Bingham, Bavougian, Criswell, Hornig, Lucas, Nordboe, Pettigrew, Rowland, Sims (10). Absent: Phillips (1). Voting nay: None (0). Vacant positions (2). Motion carried.

Kati Jones: Permanent Color Technician and Tattoo Artist - Initial

Motion: Nordboe moved, seconded by Criswell, to recommend issuance of the license. A roll call vote was taken. Voting aye: Anderson, Bingham, Bavougian, Criswell, Hornig, Lucas, Nordboe, Pettigrew, Rowland, Sims (10). Absent: Phillips (1). Voting nay: None (0). Vacant positions (2). Motion carried.

Reinstatement after Discipline Reviews

MOTION: Criswell moved, seconded by Nordboe, to enter into closed session at 2.22 p.m. for the purpose of hearing discussions of an investigative/confidential nature and for the prevention of needless injury to the reputation of the individuals. Anderson repeated the motion and purpose. A roll call vote was taken. Voting aye: Anderson, Bingham, Bavougian, Criswell, Hornig, Lucas, Nordboe, Pettigrew, Rowland, Sims (10). Voting nay: None (0). Absent: Phillips (1). Vacant positions (2). Motion carried.

2:22 p.m. Hart exited the meeting room
2:48 p.m. Verbal agreement from all board members to enter into open session; Hart entered the meeting room; Hart re-entered the meeting room
2:49 p.m. Lucas exited the call

Amanda (Villalon) Kelley– Cosmetologist - Reinstatement (early release from probation)

MOTION: Hornig moved, seconded by Pettigrew, to recommend denial of reinstatement due to insufficient documentation to support early release from probation. A roll call vote was taken. Voting aye: Bingham, Bavougian, Criswell, Hornig, Nordboe, Pettigrew, Rowland, Sims (8). Voting nay: Anderson (1). Absent: Lucas, Phillips (2). Vacant positions (2). Motion carried.

Krystle Webber – Cosmetologist - Reinstatement after Disciplinary Revocation

MOTION: Nordboe moved, seconded by Lucas, to recommend full reinstatement providing all outstanding fees paid. A roll call vote was taken. Voting aye: Anderson, Bingham, Bavougian, Criswell, Hornig, Nordboe, Pettigrew, Rowland, Sims (9). Voting nay: None (0). Absent: Lucas, Phillips (2). Vacant positions (2). Motion carried.

8. ADJOURNMENT

Anderson announced the next meeting is scheduled on 3.1.21 as a conference call and declared the meeting adjourned at 2:50 p.m.

Submitted,

Jackie Hornig, Secretary

Board of Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art